

Murray Code Enforcement Board Minutes June 5, 2007

The Murray Code Enforcement Board met in regular session on June 5, 2007 at 5:00 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Mitzi Key, Thomas Rottinghaus, and Sam Underwood

Board Members Absent: Ben Blakely and Matt Jennings

Others Present: David Roberts, Dannetta Cossey, Dickie Walls, Chris Scott, and Dennis Nall.

Chairman Thomas Rottinghaus called the meeting to order and had an attendance roll call.

Approve Minutes from May 1, 2007 Meeting: Chairman Rottinghaus asked for approval of the May 1, 2007 minutes. **Mitzi Key made a motion to approve the May 1, 2007 minutes. Sam Underwood seconded the motion and it carried by a 3-0 voice vote.**

Public Hearing – Dennis Nall: Chairman Rottinghaus explained to Mr. Dennis Nall that he would be given a chance to testify and ample opportunity to tell his side of the story. Also, that Mr. Nall and the city representative would be able to cross examine any witnesses and present any evidence. Chairman Rottinghaus explained that the burden of establishing whether or not a violation existed is the responsibility of the city to prove. Chairman Rottinghaus continued to state that Mr. Nall would receive tonight's ruling within seven days and he may appeal that order to the Calloway County District Court within thirty days. Chairman Rottinghaus asked Mr. Nall if he understood. Mr. Nall answered yes. Chairman Rottinghaus asked the city representative, Dickie Walls to come forward and administered the oath. Mr. Walls stated on May 8, 2007 he was made aware of property maintenance issues at 1706 Ryan Avenue and that upon inspecting the property he determined two violations at the time, one being a structure in the backyard with the roof collapsing and in front of the house a carport with boards beginning to fall which was covered with a blue tarp. Mr. Walls said he sent Mr. Nall a certified copy of the violation notice which was signed for by Geneva Collins on May 9, 2007. At this time Mr. Wall submitted photos of the property as evidence. Mr. Walls continue to say that today he re-inspected the property and Mr. Nall had razed and removed the carport on the front and also razed and removed the section of the outbuilding that was collapsing. Mr. Walls stated after re-inspection, in his opinion, Mr. Nall is now in compliance. Chairman Rottinghaus asked what day the photographs were taken. Mr. Walls said on May 8, 2007. Mr. Walls explained that the violation gave Mr. Nall thirty days to come into compliance and he has done so within that time frame. Chairman Rottinghaus asked Mr. Nall if he would like to cross examine Mr. Walls. Mr. Nall answered no. Chairman Rottinghaus asked Mr. Nall to come forward and administered the oath. Mr. Nall said he didn't receive the notice as quickly as it was signed for because his in-laws that live in Murray received it and that he lives in Houston. Mr. Nall continued to say after he did receive the notice of, he came to Murray to talk with Mr. Walls

about it. At this time, Mr. Nall submitted pictures of the property that were taken on May 4, 2007. Mr. Nall stated that he is continuing to do work at the property as quickly as possible and that he is having cypress lumber being cut for the framing and will be re-roofing the back shed and also the house. Chairman Rottinghaus asked how long it took for his in-laws to contact him about the notice of violation. Mr. Nall said he believed it was May 11th or 12th. Mr. Nall continued to say there was never a question of the violation and that the reason he appealed was because he thought he would need more time. Chairman Rottinghaus asked if the property was rental property. Mr. Nall said the property is his old family home which his brother is now living in. Mrs. Key asked when he would be finished with all the work. Mr. Nall said the material is ordered but would probably be two weeks before completion. Mr. Underwood stated that it looked like Mr. Nall had done what was asked. Chairman Rottinghaus closed the public hearing and the Board began to deliberate. All board members agreed that Mr. Nall had come into compliance within the time frame given. **Mitzi Key made a motion that the Violation of City of Murray Code of Ordinances # 0578 dated May 8, 2007 issued to Respondent, Dennis Nall be dismissed. Sam Underwood seconded the motion and it carried by a 3-0 roll call vote.**

Default Case – Bessie Harrison: Chairman Rottinghaus called the default case to order and Dannetta Cossey read the case information. Chairman Rottinghaus called city representative, Chris Scott forward and administered the oath. Officer Scott stated on January 17, 2007 he was assigned the property at 402 South 11th Street and given photographs by Captain Potts. At this time, Officer Scott submitted the photographs as evidence and continued to say the photographs showed a considerable amount of overgrowth, rubbish and garbage in the backyard. Officer Scott said he had been patient with Ms. Harrison because she had made an effort to clean up the problems but was taking a great deal of time so on January 25, 2007 he gave her a written warning and on March 30, 2007 told her that visible progress needed to be seen as soon as possible and on March 30, 2007, the dead tree had been cut down but was in the back yard and the overgrowth was still there and vegetation not trimmed. Officer Scott stated that since March 30, 2007 the only thing that has been done is she is keeping the front yard mowed. Then on May 23, 2007 Officer Scott said he took the most current photographs which he submitted as evidence and on Sunday, June 3, 2007 he drove by the property and everything still looked the same. Officer Scott said he re-visited the property on April 27, 2007 and told her that the tree needed to be cleaned up and the vegetation controlled and at this time wrote her a violation giving her seven days to get the violations corrected and since the violation was written, Officer Scott said he had not seen any progress. Mrs. Key asked if the property was her home. Officer Scott answered yes. Chairman Rottinghaus asked if the animal kennel had a roof over it and if the animal was still there. Officer Scott said the animal kennel was no longer there and he does not recall seeing an animal. Chairman Rottinghaus asked if the piles of wood and bed springs had been cleaned up. Officer Scott said most all the piles are gone but the tree and the vegetation are the most visible problems now. Chairman Rottinghaus closed the default case and the Board began to deliberate. Sam Underwood asked what percentage of work had been completed. Officer Scott answered approximately 3 out of 4 of the violations have not been completed. Chairman Rottinghaus asked if it was correct that the back yard still had a lot growth but she was keeping the front yard mowed. Officer Scott answered yes. Chairman Rottinghaus asked if the back yard could be seen by

many residents. Officer Scott stated that it could be seen by driving by and she has neighbors on each side plus one behind her that joins the back of her property. Mrs. Key asked if Officer Scott went today to the property would he issue a citation. Officer Scott answered yes if the property was still in the condition that he saw it in Sunday. Chairman Rottinghaus stated that in his opinion, Ms. Harrison is in violation and had been for nearly five months and that a penalty needed to be imposed. Mrs. Key stated she felt Officer Scott had been very patient and lenient. **Thomas Rottinghaus made a motion ordering Bessie Harrison to pay a civil fine to the City of Murray in the amount of \$175.00 within 14 days from today and that Bessie Harrison shall comply with Chapter 158 of the City of Murray Code of Ordinances within 14 days of today and if Bessie Harrison fails to comply within 14 days her fine shall be increased to the amount of \$750.00 and an additional \$100.00 per day for each day the violation continues to exist. Sam Underwood seconded the motion and it carried by a 3-0 voice vote.**

David Roberts stated that he felt on appealed citations the time limit given to come into compliance before a fine goes into effect should begin after the hearing if the board finds that a violation does exist and the violation is not already corrected. Dickie Walls explained that on appealed cases the Board is determining whether or not a violation does exist and if the Board agrees that a violation does exist then Mr. Walls suggested that the time limit to come in compliance does not begin until after the hearing. Chairman Rottinghaus stated that it would be up to the citing officers to determine how much time is given on the violations. Dickie Walls stated that the amount of time given is based on the degree of work that needs to take place. Chairman Rottinghaus asked about danger situations. Mr. Walls stated that there are provisions for the city to immediately take care of dangerous problems such as tearing a building down.

Being no further business, Mitzi Key a motion to adjourn.

Chairman, Thomas Rottinghaus

Recording Secretary, Dannetta Cossey